

SPECIAL NOTIFICATION

Attention Original Package Retail Tastings

FROM: STATE SUPERVISOR

DATE: MAY 12, 2006

Recently the Division has received requests for permission to do tastings at an original package store in conjunction with a food demonstration where there is a charge for food consumed and alcoholic beverages are also served. The Division has determined within certain guidelines (see number 8), this would be permissible. The following guidelines on tastings will set out the legal requirements under Sections 311.070, 311.294 and 311.310, RSMo, and 11CSRs 70-2.040 and 70-2.240, for tastings.

Manufacturer's solicitors and wholesalers may hold consumer tastings on a retail by the drink premises or on an original package premises which has a tasting license under Section 311.294, RSMo. Following are various conditions/requirements:

1. The industry member must have permission from the person holding the retail license, since the retail license could be suspended or revoked should violations of the liquor laws or regulations occur upon or about the licensed premises during such activities.
2. Alcoholic beverages shall not be supplied to persons less than twenty-one years of age or to intoxicated persons.
3. Alcoholic beverages may not be consumed during hours or days when consumption at a licensed premise is prohibited by law.
4. Free tastings may not be advertised.
5. A retail by drink establishment may give the tasted product to the consumer or may charge.
6. If the retailer does not charge the consumer for the tasted product, then a manufacturer, solicitor or wholesaler may supply the product for the tasting **ONLY IF** the product is properly invoiced, through the distribution tiers to the retailer at the posted price or, if malt beverages, normal price. The retailer must pay the wholesaler for the product and the manufacturer, solicitor or wholesaler must then buy the product back from the retailer at a price not to exceed the normal retail price. In effect the manufacturer, solicitor or wholesaler is acting as a consumer and buying the house a drink.

7. If the retail by the drink retailer does charge the consumer for the tasted product, then the manufacturer, solicitor or wholesaler may not buy the product from the retailer or furnish it to the consumer. Note that charging an admission fee, which allows the entrants to taste, constitutes charging for the tasting.
8. A package retailer (with an Original Package Tasting License issued under Section 311.294, RSMo) may not charge the consumer for the tasting product. However, a fee may be charged for a food demonstration where a prepared meal is served and alcohol is served as secondary to the event. The individual person participating in the food demonstration may be served multiple tasting samples up to the equivalents of twenty-four ounces of beer, twelve ounces of wine, and three ounces of distilled spirits. (PLEASE NOTE: When an Original Package Tasting Licensee does charge for a prepared meal under these circumstances, the manufacturer, solicitor or wholesaler may not furnish the product.)
9. Under no circumstances may an employee of a manufacturer, solicitor or wholesaler pour, serve or open tasted products, nor may a manufacturer, solicitor or wholesaler provide a demo person to do these things. Such employee or demo person may only describe the products.
10. A manufacturer, solicitor or wholesaler may not under any circumstances provide other items – most commonly cheese or other food items – at any tastings.

Please contact the Division with any questions you may have about any particular tasting event.

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State Supervisor